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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,780	12/17/2001	Peter Pal Boda	04770.00027	4424

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WASHINGTON, DC 20001

EXAMINER

TRAN, TUAN A

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/015,780

Applicant(s)

BODA ET AL.

Examiner

Tuan A Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 2-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (5,991,737).

Regarding claims 2-5, 36, 51 and 56-58, Chen discloses a call server 22, comprising: a processor 36; memory 34 for storing data comprising a database that correlates information identifying a plurality of broadcast program to information for contacting each of the plurality of broadcast programs (See fig. 2 and col. 4 lines 41-60) and a mobile device 24, inherently comprising a processor. Both of the call server 22 and the mobile device 24 inherently comprise computer readable instructions that, when executed by the processor 36 of the call server and the processor of the mobile device 24, cause the call server 22 and the mobile device 24 to perform a method for establishing a wireless telephony connection (See fig. 1), comprising the steps of: receiving from the mobile device 24 a first request to establish a wireless connection

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between the mobile device 24 and a broadcast program, the first request comprising a current condition of a dynamic variable wherein the dynamic variable represents a current broadcast channel to which the mobile device is tuned and additional information about the request comprising a contact address of the mobile device 24 (See figs. 1-2 and col. 3 lines 21-43, lines 60-64, col. 4 lines 21-23, col. 5 lines 1-15); querying the database based on the dynamic variable to retrieve information for contacting a broadcast program corresponding to the dynamic variable (See figs. 1-2 and col. 5 lines 8-16); performing hand-shaking (the call server 22 communicates with the broadcasting devices 12, 14 with additional consumer's information in order to fulfill the consumer's request or order and further provide acknowledgement to the consumer) with a device 12, 14 associated with the broadcast program (See figs. 1-2 and col. 4 lines 24-29); and establishing the requested wireless connection between the mobile device 24 and the device 12, 14 associated with the broadcast program (See figs. 1-2 and col. 3 lines 11-16, col. 3 line 65 to col. 4 line 8). However, Chen does not explicitly mention that the request made by the mobile device specifying for an interactive (two-way voice or data) wireless connection and the steps of sending a connection request with additional information to the device associated with the broadcast program and receiving a connection response from the device associated with the broadcast program based on contact information comprising telephone number or IP address. Since Chen further discloses the call server 22 decides whether or not to establish the direct wireless interaction between the mobile device 24 and the device associated with the broadcast program 12, 14 (See col. 4 lines 18-33) based on the received connection

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request; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Chen's system by allowing the user specify the desired type of connection in the request for the advantage of giving the user higher degree of freedom (user friendly) to select the desired type of connection. Further, since Chen discloses the hand-shaking process (hand-shaking process is a verification process) between the call server and the device associated with the broadcast program and the contact information inherently includes telephone number or mailing address or Internet address such as IP address or URL or HTTP, therefore it would have been obvious to establish the steps of sending request and receiving response (automatically or manually) between the call server and the device associated with the broadcast program in order to enhance the effectiveness of information exchange between the call server and the device associated with the broadcast program as well as allowing the call server to provide the consumer the status (denial or acceptance) of the request or order.

Claims 9-11, 33 and 45-48 are rejected for the same reasons as set forth in claims 2-5, 36, 51 and 56-58, as method.

Claims 16-17, 19, 24-25, 27, 39 and 42 are rejected for the same reasons as set forth in claims 2-5, 36, 51 and 56-58.

Regarding claims 6 and 54, Chen discloses as cited in claim 2. The connection response inherently comprises a delay time defined by the device associated with the broadcast program and the computer readable instructions further inherently comprises the step of waiting for the delay time before performing the step of establishing a

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connection between the mobile device and the device associated with the broadcast program in order to allow the receiving end (the device associated with the broadcast program) sufficient time to process and execute the request properly.

Regarding claims 7 and 59, Chen discloses as cited in claim 2. Chen further discloses the step of receiving from a mobile device 24 a first request as text message (See col. 4 line 66 to col. 5 line 7).

Claims 23 and 31 are rejected for the same reasons as set forth in claim 7 and 59

Claim 15 is rejected for the same reasons as set forth in claims 7 and 59, as method.

Regarding claims 8 and 60, Chen discloses as cited in claims 7 and 59. However, Chen does not mention that the request is a SMS message or HTTP message. Since SMS message or HTTP message is well known in the art, therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to send a request as a SMS message or HTTP message for the advantage of enhancing the application of the system comprising the mobile device and the call server.

Claims 32 and 35 are rejected for the same reasons as set forth in claims 8 and 60.

Claim 34 is rejected for the same reasons as set forth in claims 8 and 60, as method.

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Regarding claims 12-13, Chen discloses as cited in claim 10. Chen further discloses the current broadcast comprises an advertisement or a call-in program (See col. 3 lines 28-43, col. 4 lines 50-54).

Claims 20-21 and 28-29 are rejected for the same reasons as set forth in claims 12-13.

Regarding claim 14, Chen discloses as cited in claim 9. Chen further discloses the step of receiving from the mobile device 24 a first request comprises a verbal command (See col. 4 lines 63-66, col. 6 lines 3-6).

Claims 22 and 30 are rejected for the same reasons as set forth in claim 14.

Regarding claims 18, 26, 52 and 55, Chen discloses as cited in claims 2, 16 and 24. However, Chen does not mention the step of receiving connection information to establish a connection between the mobile device and the device associated with broadcast program or a rejection message when the request is rejected. Since Chen discloses the call server 22 sends feedback, acknowledgement, or a request for additional information to the mobile device 24 (See col. 4 lines 18-24), therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the step of receiving connection information to establish a connection or receiving a rejection message when the request is rejected for the advantage of alerting the users about the situation so they can have appropriate actions taken.

Regarding claims 37-38, 40-41 and 43-44, Chen discloses as cited in claims 2, 16 and 24. Chen further discloses the additional information comprises a summary of an intended discussion topic or location information (See col. 5 lines 1-15).

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Claims 49-50 are rejected for the same reasons as set forth in claims 36-44, as method.

Regarding claim 53, Chen discloses as cited in claim 2. However, Chen does not mention the step of existing the connection between the mobile device and the device associated with the broadcast program. Since Chen further discloses the call server 22 capable of establishing the requested **direct** wireless interaction between the mobile device 24 and the device associated with the broadcast program 12, 14 (See col. 4 lines 30-32); therefore it would have been obvious for one skilled in the art to establish the step of exiting the connection between the mobile device and the device associated with the broadcast program for the advantage of reducing workload for the call server as well as saving spectrum for the call server to perform other operational tasks.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Zdepski et al. (5,825,884) ; Lumelsky (6,246,672) ; Osborne (4,974,252) ; Yuen (5,812,931).

Response to Arguments

Applicant's arguments with respect to claims 2-60 have been considered but are moot in view of the new ground(s) of rejection.

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a. The Applicant stated the Examiner agreed in principle that Chen does not disclose establishing a two-way connection between a consumer device and the device associated with the broadcast program (See Remark, page 13 third paragraph). The Examiner respectfully disagrees with the Applicant's statement because there was not such agreement (See Interview Summary conducted on September 23, 2004).

b. The Applicant argued that Chen does not provide any indication that it would be desirable to provide two-way communication between the mobile device (consumer) and the device associated with the broadcast program (See Remark, page 14-17). The Examiner respectfully disagrees with the Applicant's arguments because although Chen does not explicitly mention that the request made by the mobile device specifying for an interactive (two-way voice or data) wireless connection, but since Chen further discloses the call server 22 decides whether or not to establish the direct wireless interaction between the mobile device 24 and the device associated with the broadcast program 12, 14 (See col. 4 lines 18-33) based on the received connection request; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Chen's system by allowing the user specify the desired type of connection in the request for the advantage of giving the user higher degree of freedom (user friendly) to select the desired type of connection (See above rejection for more details).

c. The Applicant argued that Chen does not disclose the hand-shaking process suggested in the Office Action (See Remark, page 18 second paragraph). The Examiner respectfully disagrees with the Applicant's arguments because Chen does

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disclose the call server performs hand-shaking (the call server 22 communicates with the broadcasting devices 12, 14 with additional consumer's information in order to fulfill the consumer's request or order and further provide acknowledgement to the consumer) with a device 12, 14 associated with the broadcast program (See figs. 1-2 and col. 4 lines 24-29).

d. The Applicant argued that Chen does not disclose the defined delay time (See Remark, page 19 second paragraph). The Examiner respectfully disagrees with the Applicant's arguments because system (hardware) always has a define delay for executing instruction.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan Tran** whose telephone number is **(703) 605-4255**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Vivian Chin**, can be reached at **(703) 308-6739**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



Tuan Tran

AU 2682



VIVIAN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600